

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
MAR 25 2015
SEAN F. McAVOY, CLERK
DEPUTY
SPOKANE, WASHINGTON

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALAN J. ZUNKE,

Defendant.

Case No.: 2:14-PO-00304-JTR

UNSUPERVISED PRE-TRIAL
DIVERSION AGREEMENT

Plaintiff, United States of America, by and through MICHAEL C. ORMSBY, United States Attorney for the Eastern District of Washington, Tyler Tornabene, Assistant United States Attorney, and Sam White, Law Clerk for the United States, and Defendant ALAN J. ZUNKE, and the Defendant's counsel, Meredith Esser of the Federal Defenders of Eastern Washington and Idaho, agree to the following Unsupervised Pre-Trial Diversion Agreement ("Agreement").

The Defendant is before the Court currently charged by Notice of Violation (Violation No. 4439177) for Operating a Vehicle without a Valid Operator's License, in violation of Title 18 United States Code § 13 and Revised Code of Washington § 46.20.015.

1 The United States and the Defendant agree that this case shall be continued
2 until March 24, 2016, and thereafter dismissed, without prejudice upon motion by
3 the Defendant, provided the Defendant abides by all the conditions and
4 requirements herein outlined. If the Defendant completes all of the Conditions of
5 Unsupervised Pre-Trial Diversion, as outlined below, and does not violate this
6 agreement during its term, the United States will not oppose the Defendant's
7 motion for dismissal with prejudice so long as that motion is made after September
8 24, 2016.

9 FACTUAL BACKGROUND

10 The United States and the Defendant agree that the following facts are
11 truthful and accurate and form a sufficient basis for a finding of guilt for Operating
12 a Vehicle without a Valid Operator's License, in violation of Title 18 United States
13 Code § 13 and Revised Code of Washington § 46.20.015.that the United States
14 could prove these facts beyond a reasonable doubt at trial; and that these facts can
15 be used as a basis for making findings and entry of judgment per the terms of this
16 Agreement.

17 On August 28, 2014, the Defendant, Alan J. Zunke, was driving a green
18 Dodge Caravan with license plates 673AF at the VA Medical Center at 4815 N.
19 Assembly Street, Spokane, WA 99205. The vehicle's right rear brake light was
20 inoperable. The Defendant was subject to a law enforcement stop and was asked
21 by the federal officer conducting the stop to produce a valid driver's license. The
22 Defendant was unable to produce a valid driver's license and stated to the federal
23 officer that he used to have a driver's license, but that it was revoked, and that he
24 no longer had a driver's license.
25
26

27 ACCEPTANCE OF PRE-TRIAL DIVERSION AND 28 STIPULATION OF FACTS

1 The Defendant hereby:

2 1. Agrees to complete the terms and conditions of this Agreement.

3 2. Understands that if he fails or neglects to comply with any part of the
4 terms and conditions of the Agreement, then the Court will hold a hearing to
5 determine whether judgment should be entered on the charge of Operating a
6 Vehicle without a Valid Operator's License, in violation of Title 18 United States
7 Code § 13 and Revised Code of Washington § 46.20.015. After the hearing, the
8 Court will either order that the Defendant continue with the conditions of his pre-
9 trial diversion, order additional conditions, or be removed from pre-trial diversion
10 and enter judgment on the charge of Operating a Vehicle without a Valid
11 Operator's License, in violation of Title 18 United States Code § 13 and Revised
12 Code of Washington § 46.20.015.
13

14 3. Agrees that if the Court revokes the order granting this pre-trial diversion,
15 the facts from the factual background above and any written officer reports and any
16 attachment thereto will be admissible as evidence to be used to support a finding of
17 guilt when the Court enters judgment. The Defendant understands that by agreeing
18 to this process, he is giving up certain Constitutional rights. He specifically
19 acknowledges that he is giving up the right to a trial, the right to testify or not to
20 testify, the right to question witnesses, the right to call witnesses in his own behalf,
21 and the right to present evidence or a defense;
22

23 4. Understands that he is entitled to a trial that would determine whether the
24 United States could prove him guilty of the instant charge beyond a reasonable
25 doubt. He does hereby, voluntarily and with knowledge of the above rights, waive
26 his right to a trial of this case by the Court pursuant to paragraph three (3) above;

27 5. Agrees to report any potential violation of the conditions listed below to
28 the United States Attorney's Office for the Eastern District of Washington through

1 the Federal Defenders of Eastern Washington and Idaho within one (1) business
2 day of the potential violation.

3 CONDITIONS OF UNSUPERVISED PRE-TRIAL DIVERSION

4 The Defendant must abide by the following conditions and requirements:

5 1. The Defendant must fulfill his obligation under violation number 4439178
6 (a separate collateral violation charged to the Defendant) by paying a forfeiture
7 amount of five-hundred seventy-five dollars (\$575.00) payable by check or money
8 order to the Central Violations Bureau, P.O. Box 71363, Philadelphia, PA 19176-
9 1363 (or payable online at www.cvb.uscourts.gov). The payment must reference
10 violation number 4439178 and may be paid in installments of no less than twenty-
11 five (\$25.00) dollars.

12 2. In lieu of up to five-hundred fifty (\$550.00) of the five-hundred seventy-
13 five dollar (\$575.00) forfeiture amount, the Defendant may complete volunteer
14 hours at the rate of one hour per ten-dollars (\$10.00) until the Defendant has
15 volunteered for up to 55 hours. The Defendant must pay his remaining forfeiture
16 amount and complete all volunteer hours by March 24, 2016.

17 3. Within seven (7) days of the final working day of each month, the
18 Defendant must provide the United States Attorney's Office of the Eastern District
19 of Washington, through his attorney, written documentation of his monthly
20 volunteer hours. This documentation should include the name of the organization
21 for which he volunteered, including the contact information and signature of his
22 supervisor; however, no verification is due after the Defendant has volunteered and
23 reported 55 hours, nor in any month in which the Defendant did not perform
24 volunteer hours.
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1 4. The Defendant shall complete these community service hours at a
2 501(c)(3) organization with which neither he nor his immediate family has
3 any past or current affiliation.

4 5. The Defendant shall not violate nor be charged with or convicted of any
5 criminal violations under federal, state, or local law before this cause is dismissed
6 without prejudice, or judgment is entered, per the terms of this Agreement. Civil
7 and Non-Criminal Traffic Infraction violations will not constitute a violation of
8 this Agreement.

9 If the Defendant complies with all the obligations mentioned above, no
10 prosecution for the conduct set out in the factual background section of this
11 Agreement will be instituted in the Eastern District of Washington and the United
12 States agrees to dismiss these charges without prejudice.

13 Should there be a violation of the terms of this Agreement, however, and the
14 Agreement is revoked, a conviction for the charged offense may be imposed
15 pursuant to the procedures outlined herein. If a conviction occurs, the Defendant
16 understands he will be subject to a fine of up to two hundred fifty dollars
17 (\$250.00). This fine is determined pursuant to 18 U.S.C. § 13(a) which provides
18 that a Defendant shall be subject to a like punishment as under the laws of the
19 state. Revised Code of Washington § 46.30.020 provides for above-stated fine
20 amount for two-hundred fifty dollars (\$250.00). Additionally, a conviction under
21 this offense (violation no. 4439177) will not satisfy the defendant's obligations
22 under collateral violation no. 4439178 as noted above.

23
24 ADVICE AND ACKNOWLEDGMENT OF DEFENDANT'S RIGHTS

25 I, ALAN ZUNKE, understand and acknowledge I have the following rights:

26 1. The right to a speedy and public trial in the place where the crime is
27 alleged to have been committed;
28

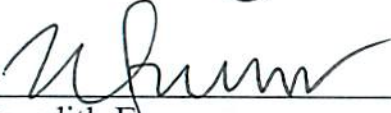
2. The right at trial to question witnesses who testify against me;
3. The right at trial to call witnesses to testify for me;
4. The right to present evidence and a defense;
5. The right to appeal a judgment of guilt.

By entering into this Agreement I understand that I am knowingly, intelligently, and voluntarily, waiving these rights. I further understand that by continuing these charges until March 24, 2016, I am agreeing to follow the procedures outlined in this Agreement.


I, ALAN ZUNKE, hereby state that I have read this document in its entirety. I understand the conditions of my pre-trial diversion and agree that I will comply with those conditions.


ALAN ZUNKE
Defendant


March 25, 2015
Date


Meredith Esser
Attorney for the Defendant

March 25, 2015
Date


Tyler Tornabene
Assistant United States Attorney

3-25-15
Date


Sam White
Law Clerk for the United States

3/25/15
Date

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SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff,
vs.
ALAN J. ZUNKE,
Defendant.

Case No.:2:14-PO-00246-JTR

ORDER GRANTING
UNSUPERVISED PRE-
TRIAL DIVERSION
AGREEMENT

Upon consideration of the parties' Pre-Trial Diversion Agreement, and being fully advised of the facts and circumstances of this case, the Court finds the Defendant has agreed to comply with the terms and conditions of the Pre-Trial Diversion Agreement; that the Court finds the Defendant has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting pre-trial diversion; that the Defendant's statements were made knowingly and voluntarily; and that the Defendant has knowingly and intelligently waived his Constitutional and statutory rights to a speedy trial, to question those witnesses against him, to call witnesses on his behalf, and to present evidence or a defense at trial.

1 NOW THEREFORE, IT IS HEREBY ORDERED:

2 1. The Defendant is accepted for pre-trial diversion;

3 2. The Defendant shall comply with all the terms and conditions as set forth
4 in the Pre-Trial Diversion Agreement;

5 3. If the Court finds that the Defendant violated any term of the Pre-trial
6 diversion Agreement, the Court shall enter judgment pursuant to the procedures
7 outlined in the Agreement.
8

9
10
11 HON. John T. Rodgers
12 United States Magistrate Judge

3-25-15
Date